

Press Release
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EXPLANATION ON ARTICLE 98
The U.S. position regarding the International Criminal Court

The United States' effort to seek Article 98 agreements is consistent with the Rome Statute that created the International Criminal Court. The United States is not requesting immunity for its military and/or civilians, but wishes to ensure that its citizens be sent back to the United States for a trial, where the established judicial system will judge them according to its norms and statutes.

The United States is not trying to undermine the International Criminal Court, whose statutes specifically provide for agreements under Article 98. The International Criminal Court acknowledges the possibility of such bilateral agreements. The United States proposes that its national court system continue to be the forum of first instance for investigation and prosecution of exclusively three crimes: war crimes, genocide and crimes against humanity. The agreement does not include any other crime or offense.

The United States will continue to be a committed defender of the principle of accountability for war crimes, genocide and crimes against humanity. Our policy regarding the ICC is compatible with other long-lived policies on human rights, the rule of law and the validity of democratic institutions.

The United States considers that despite its best intentions, the ICC has serious flaws and could become a hindrance to justice and even an instrument for injustice. The United States is concerned about the security of its military personnel, since they are particularly in risk due to their participation in military and peace-keeping operations emerging from the unique role of our country in global policies. The U.S. decision to not accept the Rome Statute but to seek agreements under Article 98 is motivated by the possibility of actions that may attempt to use the Court to undertake politically-motivated persecutions.